

# U.S. Department of the Treasury Financial Management Service

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“New Horizons for Financial Accountability and Management”

## EEO Cases and the Financial Impact on Federal Agencies

Richard W. Furcolo, Administrative Judge

# U.S. Equal Employment Opportunity Commission

*Our Mission is to -*

## **ERADICATE EMPLOYMENT DISCRIMINATION AT THE WORKPLACE**

- **Our Vision**

A strong and prosperous nation secured through a fair and inclusive workplace.

- **Our Responsibility**

We promote equality of opportunity in the workplace and enforce Federal laws prohibiting employment discrimination.

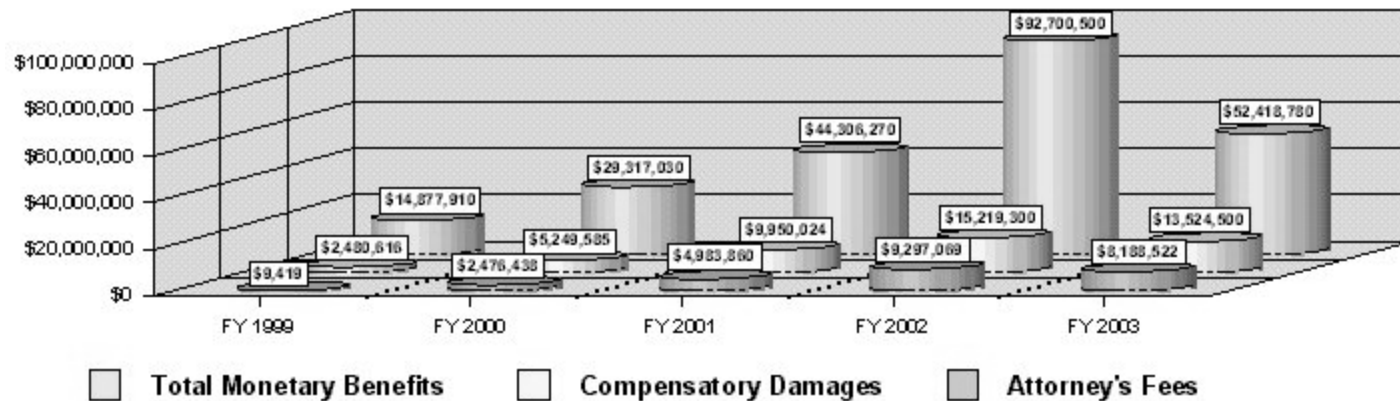
# Remedies

EEOC's policy is to seek full and effective relief for each and every victim of discrimination. The remedies may include:

- posting a notice to all employees advising them of their rights under the laws EEOC enforces and their right to be free from retaliation;
- corrective or preventive actions taken to cure or correct the source of the identified discrimination;
- nondiscriminatory placement in the position the victim would have occupied if the discrimination had not occurred;
- compensatory damages;
- attorney's fees;
- back pay (with interest if applicable) and lost benefits; and
- stopping the specific discriminatory practices involved.

# FY 1999 – FY 2003

## Monetary Benefits Awarded at Hearings Stage



Monetary Benefits  
Awarded in Federal Sector Hearings  
FY 2003

- **Total Monetary Benefits: \$52,418,780**
- **Compensatory Damages: \$13,524,500**
- **Attorney's Fees: \$8,188,522**

# EEOC Performance and Accountability Report FY 2004

- EEOC received 9,027 requests for Federal Sector hearings and 7,831 appeals
- \$45.5 million in monetary benefits for complainants awarded by Administrative Judges in hearings
- \$22 million in monetary benefits for complainants by securing compliance with appellate orders

# Significant Factors

- Significant factors affecting EEOC's workload in the federal-sector are the volume of complaints filed and hearings and appeals requests and the efficiency and effectiveness of complaint processing among the different federal agencies.
- Each agency's management focus and culture impacts on the EEO climate at the federal agency and, consequently, the number and complexity of complaints initiated.
- EEOC's workload in hearings and appeals is tied to the volume of complaints filed that are not resolved successfully at the agency level.

# Stages of the EEO Dispute Process

## 29 C.F.R. Part 1614

- Pre Complaint
- Counseling
- Formal Filing
- Investigation
- Post Investigation with resolution
- Proposed Disposition
- Final Agency Decision without a Hearing
- Hearing
- Final Agency Decision After Hearing
- Appeal

# EEO Costs – Federal Sector

- Source:
- ADR Savings, GSA Office of Equal Employment Opportunity, The Cost Savings Associated With the Air Force Alternative Dispute Resolution Program (1996)
- Available at:  
[www.houston.feb.gov/adr\\_savings.htm](http://www.houston.feb.gov/adr_savings.htm)

# EEO Costs – Federal Sector

- Pre Complaint - \$822.78
- Counseling - \$1,360.03
- Filed Formal - \$787.08
- Investigation - \$3,213.44
- Post Investigation w/resolution - \$2,231.12
- Proposed Disposition - \$2,854.90
- Final Agency Decision w/o Hearing - \$1,521.00
- Hearing - \$6,041.20
- Final Agency Decision After EEOC Hearing - \$2,281.50
  
- TOTAL - \$21,113.05 \*

# EEO Costs – Federal Sector

- \* Does not include cost of settlements estimated at \$15,537.00
- \* Does not include indirect case processing costs estimated at \$8,000.00
- \* Does not include Appeal costs estimated at \$136,083.00
- \* **All figures are based on data from 1988**

# EEO Costs – Federal Sector

- Air Force Legal Services Agency/Central Labor Law Office (AFLSA/CLLO) estimated that, depending on the circumstances of the complaint, the cost of each complaint going through the process up to a Final Agency Decision is between \$40,000 and \$80,000
- Total Potential Cost = \$162,390 - \$310,390
- Agency cannot turn off the process if no discrimination is found

# Coordination

*"Coordinating efforts across federal agencies is key to reaching the shared goal of ensuring a bias-free workplace. It is essential that the Federal government present a clear and uniform message that will prevent employment discrimination and promote greater compliance with federal EEO mandates."*

EEOC Chair, Cari M. Dominguez

# Alternative Dispute Resolution (ADR)

- Alternative Dispute Resolution (ADR) is a process in which a third party neutral assists in resolving disputes by using various techniques to reach a resolution acceptable to the parties
- Voluntary
- Neutral
- Confidential
- Enforceable

# ADR Benefits

- Used properly, ADR can provide fast and cost effective results while at the same time improving workplace communication and morale
- ADR offers the parties the opportunity for an early, informal resolution of disputes in a mutually-satisfactory fashion Complainants can avoid costly attorney's fees
- Agency can minimize the use of investigators, legal staff, official time, and court reporter fees
- Working relationships can improve rather than deteriorate due to ongoing legal battles, and overall employee morale can be enhanced when the agency is viewed as open-minded and cooperative in seeking to resolve EEO disputes

# FY 2004 ADR Usage in Pre-Complaint Stage

## Department of the Treasury

- Total Work Force: 128,317
- Total Completed Counselings: 1,661
- ADR Offers: 1,651
- ADR Offer rate: 99.40%
- Accepted into ADR: 346
- ADR Election rate: 20.96%
- ADR Participation rate: 20.83%
- ADR Closures: 371
- ADR Settlements: 163
- ADR Withdrawals from EEO Process: 73
- Total ADR Resolutions: 236
- ADR Resolution rate: 63.61%

# Conclusions

- Litigated Federal Sector EEO complaints can cost between \$162,390 - \$310,390
- ADR saves time, increases productivity
- ADR participants overwhelmingly approve of the ADR process

# Resources

- **U.S. Equal Employment Opportunity Commission**

[www.eeoc.gov](http://www.eeoc.gov)

Washington Field Office - Administrative Judge of the Day (202) 419-0700

- **Federal Executive Board – Houston**

[www.houston.feb.gov](http://www.houston.feb.gov)

ADR Cost Savings Study (1996)

- **General Accounting Office**

Alternative Dispute Resolution, Employers' Experience with ADR in the Workplace (1997)

- **U.S. Department of Labor, Office of the Secretary**

[www.dol.gov](http://www.dol.gov)

Alternative Dispute Resolution - Total Cost Comparisons (2005)

- **U.S. Department of Justice**

[www.doj.gov](http://www.doj.gov)

Report to the Steering Committee

Interagency Alternative Dispute Resolution Working Group (2004)